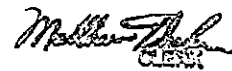


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

FILED

MAY 24 2023


CLERK

TUJUANE LOWRY,

Plaintiff,

vs.

DAVE LUNZMAN, Brown County Sheriff,
in his official capacity, and MONICA
HEIN, nurse for Brown County Jail, in her
official capacity,

Defendants.

1:23-CV-01006-CBK

ORDER

Plaintiff filed a complaint pursuant to 42 U.S.C. § 1983. Following initial review, I ordered service upon defendants. Defendants filed a motion to dismiss. Plaintiff filed a motion for an order directing various state court government employees and agencies to release records to the person who holds his power of attorney.

Plaintiff may proceed in federal court either *pro se* or with the assistance of a licensed attorney. He is proceeding *pro se* in this matter. He has no federal right to require defendants to release his personal records to a person claiming to be acting under a power of attorney.

Pursuant to Rule 6 of the Rules Governing Section 2255 Proceeding for the United States District Courts, this Court may authorize plaintiff to conduct discovery. I construe plaintiff's motion as a request for discovery in aid of his answer to the motion to dismiss.

The pending motion to dismiss contends that plaintiff has failed to state a claim upon which relief could be granted because he fails to allege that defendants were acting in their official capacities, acted pursuant to a policy, custom, or practice that was the moving force behind any claimed constitutional violation. The motion raises a legal issue


only. There is no basis for plaintiff's contention that, at this point in the litigation, he needs to conduct discovery.

No good cause appearing,

IT IS ORDERED that plaintiff's motion, Doc. 20, for release of records is denied.

DATED this 24th day of May, 2023.

BY THE COURT:


CHARLES B. KORNMANN
United States District Judge